

IC 3-6-4.1

Chapter 4.1. Indiana Election Commission

IC 3-6-4.1-1

Establishment

Sec. 1. The Indiana election commission is established.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-2

Membership

Sec. 2. (a) The commission consists of four (4) individuals appointed by the governor.

(b) Each member of the commission must be a registered voter.

(c) Each member of the commission must be a member of a major political party of the state. Not more than two (2) members of the commission may be a member of the same political party.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-3

Term of office

Sec. 3. (a) The term of an individual serving as a member of the commission begins on the later of the following:

(1) The day the term of the member whom the individual is appointed to succeed expires.

(2) The day the individual is appointed.

(b) The term of a member expires July 1 of the second year after the member's current term begins.

(c) A member may be reappointed to the commission. A member reappointed to the commission is the member's own successor for purposes of subsection (a).

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-4

Nominations and appointments for succeeding term

Sec. 4. (a) Before May 1 of a year that the term of a member of the commission expires, the state chairman of the major political party of the state represented by that member may nominate, in writing, two (2) individuals of the state chairman's own political party to succeed the member whose term will expire.

(b) The state chairman of a political party may nominate the individual whose term will expire that year to serve a new term.

(c) If the state chairman makes the nominations before May 1, the governor shall appoint one (1) of the nominees to the commission.

(d) If the state chairman fails to make the nominations before May 1, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

(e) If the state chairman disapproves the selection within the seven (7) day period under subsection (d), the governor shall make

another appointment under subsection (d) that is also subject to the disapproval of the state chairman under subsection (d).

(f) If the state chairman does not disapprove an appointment under subsection (d) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-5

Vacancies

Sec. 5. (a) If a member of the commission resigns, dies, or becomes unable to serve on the commission, the governor shall notify the state chairman of the major political party of the state represented by the member.

(b) The state chairman may nominate in writing, within ten (10) days after notice of the vacancy, two (2) individuals of the state chairman's own political party to succeed the member. If the state chairman makes the nominations within ten (10) days, the governor shall appoint one (1) of the nominees to the commission.

(c) If the state chairman fails to make the nominations within ten (10) days, the governor shall, within another ten (10) days, appoint a member of the same political party as the state chairman. The state chairman may disapprove the selection by notifying the governor within seven (7) days after receiving notice of the governor's appointment.

(d) If the state chairman disapproves the selection within the seven (7) day period under subsection (c), the governor shall make another appointment under subsection (c) that is also subject to the disapproval of the state chairman under subsection (c).

(e) If the state chairman does not disapprove an appointment under subsection (c) within the seven (7) day period, the individual appointed by the governor is a member of the commission.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-6

Chair and vice chair of commission

Sec. 6. (a) The governor shall appoint one (1) of the members of the commission to be the chair and one (1) of the members of the commission to be the vice chair of the commission. The chair of the commission must be a member of the same political party as the individual who is the secretary of state. The vice chair and the chair may not be affiliated with the same political party.

(b) The individuals appointed as chair and vice chair serve in their respective positions until each individual's term as a member of the commission expires.

As added by P.L.8-1995, SEC.18. Amended by P.L.4-1996, SEC.8; P.L.122-2000, SEC.2.

IC 3-6-4.1-7

Quorum

Sec. 7. (a) Three (3) members of the commission constitute a

quorum.

(b) Except as otherwise provided in this title, the affirmative vote of at least three (3) members of the commission is necessary for the commission to take official action other than to meet to take testimony.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-8

Designation of proxy

Sec. 8. (a) A member of the commission may designate another individual to serve as a proxy of record in the member's place as a member of the commission by filing a written instrument designating the proxy of record with the election division. The proxy of record has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the proxy of record at any time. The authority of the proxy of record may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument designating the proxy.

(b) If both the member and the member's proxy of record are unavailable, the member may designate another individual in writing to serve as an alternate proxy in the member's place as a member of the commission. This designation must be filed with the election division before taking effect. The alternate proxy has the same authority to act and vote on all matters as does the member. The member may revoke the authority of the alternate proxy at any time. The authority of the alternate proxy may be either limited or general with regard to duration or subject matter as set forth by the member in the written instrument designating the proxy.

As added by P.L.8-1995, SEC.18. Amended by P.L.3-1997, SEC.22.

IC 3-6-4.1-9

Meetings

Sec. 9. The chair shall call a meeting of the commission whenever the chair considers it necessary for the performance of the commission's duties.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-10

Failure of chair to call meeting

Sec. 10. If the chair for any reason fails to call a meeting of the commission, then:

(1) the vice chair, with the written approval of the remaining two (2) commission members, may convene a meeting of the commission; and

(2) the three (3) members of the commission may meet to execute the powers and perform the duties of the commission.

As added by P.L.8-1995, SEC.18. Amended by P.L.4-1996, SEC.9.

IC 3-6-4.1-11

Compensation and expenses

Sec. 11. (a) Each member of the commission who is not a state employee is entitled to receive both of the following:

- (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).
- (2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-12

Failure of commission to meet and discharge duties

Sec. 12. If the commission fails to meet and discharge the duties imposed upon it by law, the governor may order the commission to meet in the performance of the commission's duties if the governor:

- (1) considers a meeting to be necessary; or
- (2) receives a petition signed by at least one (1) voter from each congressional district of Indiana.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-13

Minutes of meetings

Sec. 13. The election division shall keep minutes of all meetings of the commission, including a written record of the yes and no vote of each member on all questions coming before the commission.

As added by P.L.8-1995, SEC.18. Amended by P.L.3-1997, SEC.23.

IC 3-6-4.1-14

Powers and duties

Sec. 14. (a) In addition to other duties prescribed by law, the commission shall do the following:

- (1) Administer Indiana election laws.
- (2) Adopt rules under IC 4-22-2 to do the following:
 - (A) Govern the fair, legal, and orderly conduct of elections, including the following:
 - (i) Emergency rules described in section 16 of this chapter to implement a court order requiring the commission, the election division, or an election board or official to administer an election in a manner not authorized by this title.
 - (ii) Rules (including joint rules with other agencies when necessary) to implement and administer NVRA.
 - (B) Carry out IC 3-9 (campaign finance).
 - (C) Govern the establishment of precincts under IC 3-11-1.5.

(D) Specify procedures and fees for the processing of an application from a vendor for voting systems approval and testing.

(E) Prescribe formats for the storage and submission of computerized voter registration records by county and state agencies or offices.

(3) Prescribe a uniform set of election and registration forms for use throughout Indiana, except when prescribed by this title.

(4) Advise and exercise supervision over local election and registration officers.

(b) This section does not divest a county election board of any powers and duties imposed on the board in IC 3-6-5, except that if there is a deadlock on a county election board, the county election board shall submit the question to the commission for final determination.

As added by P.L.8-1995, SEC.18. Amended by P.L.4-1996, SEC.10; P.L.3-1997, SEC.24.

IC 3-6-4.1-15 Repealed

(Repealed by P.L.3-1997, SEC.474.)

IC 3-6-4.1-16

Emergency rules

Sec. 16. The commission, by unanimous vote of the entire membership of the commission, may adopt emergency rules under IC 4-22-2-37.1 to implement a court order requiring the commission, the election division, or an election board or official to administer an election in a manner not authorized by this title.

As added by P.L.8-1995, SEC.18. Amended by P.L.3-1997, SEC.25.

IC 3-6-4.1-17

Extension of time

Sec. 17. (a) If the commission by unanimous vote of the entire membership of the commission finds that a natural disaster or other emergency makes it impossible or unreasonable for a person to perform a duty or file a document by the time specified in this title, the commission may issue an order extending the time for performing the duty or filing the document.

(b) An order described in subsection (a) expires not later than thirty (30) days after the order is issued. The order must include the following:

(1) The geographic area subject to the order.

(2) The election board or official subject to the order.

(3) The duty or filing subject to the order.

(4) The specific date by which the duty must be performed or the document filed under the order.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-18

Repealed

(Repealed by P.L.3-1997, SEC.474.)

IC 3-6-4.1-19

Subpoena power

Sec. 19. (a) The commission has the power of subpoena and may require a person to appear before the commission, a member of the commission, or the co-directors to be examined with regard to any matter with which the commission or the co-directors are charged with a duty under this title.

(b) The commission or the co-directors may require appearances at the office of the commission or at a place fixed by the commission or co-directors in the county of residence of the person subpoenaed.

(c) A witness who is subpoenaed under this section is entitled to be paid the same mileage and fee as witnesses in court actions. Mileage and fees shall be paid as other election expenses are paid.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-20

Administration of oath

Sec. 20. A member of the commission, the co-directors, or an employee of the election division may administer an oath required or permitted by this title.

As added by P.L.8-1995, SEC.18. Amended by P.L.3-1997, SEC.26.

IC 3-6-4.1-21

Actions of commission upon determination of violation

Sec. 21. (a) This section does not apply to a violation of NVRA or IC 3-7.

(b) If the commission determines that there is substantial reason to believe an election law violation has occurred, it shall expeditiously make an investigation.

(c) If in the judgment of the commission, after affording due notice and an opportunity for a hearing, a person has engaged or is about to engage in an act or practice that constitutes or will constitute a violation of this title or of a rule or an order issued under this title, the commission shall take the action it considers appropriate under the circumstances, including the following:

(1) Referring the matter to the attorney general if the commission requests that a civil action be filed under section 22 of this chapter.

(2) Referring the matter to the appropriate prosecuting attorney if the case concerns a criminal violation of this title.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-22

Civil action

Sec. 22. (a) Upon referral under section 21 of this chapter, the attorney general shall institute on behalf of the state, a civil action for relief including any of the following:

(1) A permanent or temporary injunction.

- (2) A restraining order.
- (3) Another appropriate order.

(b) An action under this section may be instituted in a circuit or superior court in the county in which the person is found, resides, or transacts business.

(c) Upon a proper showing that the person has engaged or is about to engage in an act or a practice described by section 21 of this chapter, the court shall grant the requested relief without bond.

As added by P.L.8-1995, SEC.18. Amended by P.L.2-1996, SEC.4.

IC 3-6-4.1-23

Assistance by police in enforcement of election laws

Sec. 23. (a) The state police department and all state police officers shall assist the commission, on request, in the enforcement of the election laws and the discharge of the commission's duties, including the use of state police radio and telephone service on election days.

(b) The state police department or a state police officer may not supplant or interfere with a local law enforcement officer or precinct election officer in the discharge of duties.

As added by P.L.8-1995, SEC.18.

IC 3-6-4.1-24

Campaign finance enforcement account

Sec. 24. (a) The campaign finance enforcement account is established within the state general fund to provide money for the following purposes:

- (1) Administering and enforcing IC 3-9.
- (2) Creating and operating a campaign finance computer system as authorized under IC 3-9-4-4, including investing in technology to expand the capabilities of the computer system.

(b) The account shall be administered by the election division. Funds in the account are available, with the approval of the budget agency, to augment and supplement the funds appropriated to the election commission for the purposes described in subsection (a).

(c) Expenses of administering the account shall be paid from money in the account. The account consists of all civil penalties collected by the commission under IC 3-9-4.

(d) Money in the account at the end of a state fiscal year does not revert to any other account within the state general fund.

As added by P.L.4-1996, SEC.11. Amended by P.L.3-1997, SEC.27.

IC 3-6-4.1-25

Power to hold hearings and issue advisory opinions

Sec. 25. The commission may do any of the following to administer Indiana election law:

- (1) Hold hearings under IC 4-21.5.
- (2) Issue advisory opinions.

As added by P.L.3-1997, SEC.28.